

**EXHIBIT D
TO PLAINTIFF'S COMPLAINT**

JF Taylor, INC

Vendor Terms & Conditions (jfti.com)

Standard Terms and Conditions

If this order is placed under a Government prime contract or a federally-funded order, the following provisions set forth in both the Defense Federal Acquisition Regulation (DFAR) and the Federal Acquisition Regulation (FAR) in effect within the prime contract associated with this order, are hereby incorporated in this order. Where necessary to make the context of these provisions applicable to this order, the term "contractor" shall mean "seller", the term "contract" shall mean "this order", and the terms "Government", "Contracting Officer", and equivalent phrases shall mean "buyer". If the buyer has approved lower-tier subcontracting, the seller shall include the appropriate FAR and DFAR flow-down clauses in lower-tier subcontracts.

1. Inspection/Acceptance

The seller shall only tender for acceptance those items that conform to the requirements of this order. The buyer reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The buyer may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The buyer must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

The U.S. Government may engage in the same inspection activities as J.F. Taylor, Inc.

2. Assignment

The seller or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C.3727).

3. Changes

Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

4. Disputes

This order is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. - 7101-7109). Failure of the parties to this order to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this order shall

be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The seller shall proceed diligently with performance of this order, pending final resolution of any dispute arising under the order. Except as may be expressly set forth in this T&C document with the Government Contracting Officer's express consent, the seller shall not acquire any direct claim or direct course of action against the U.S. Government. The parties agree that the U.S. Federal Court shall be the venue if any dispute arises between parties.

5. Definitions

The clause at FAR 52.202.1, Definitions, is incorporated herein by reference.

6. Excusable Delays

The seller shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the seller and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The seller shall notify the buyer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the buyer of the cessation of such occurrence.

7. Invoice

The seller shall submit an original invoice and three copies (or electronic invoice, if authorized), to the address designated in the order to receive invoices. An invoice must include:

- (a) Name and address of the seller;
- (b) Invoice date and number;
- (c) Contract number, contract line item number and if applicable, the order number;
- (d) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (e) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (f) Terms of any discount for prompt payment offered;
- (g) Name and address of official to whom payment is to be sent;
- (h) Name, title, and phone number of person to be notified in event of defective invoice.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR Part 1315.

8. Patent Indemnity

The seller shall indemnify the buyer and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this order, provided the seller is reasonably notified of such claims and proceedings.

9. Payment

Payment shall be made for items accepted by the buyer that have been delivered to the delivery destinations set forth in this order.

The buyer will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315

Unless otherwise provided by an addendum to this order, the buyer shall make payment in accordance with the clause at FAR 52.232-34, Mandatory Information for Electronic Funds Transfer Payment, which is incorporated herein by reference.

In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date of which an electronic funds transfer payment is made.

Nothing in the Terms & Conditions shall be construed or interpreted to limit or in any way restrict the rights of the U.S. Government in regard to data it owns or has a right to use, including the right to authorize the seller's use of such data.

10. Risk of Loss

Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this order shall remain with the seller until, and shall pass to the buyer upon:

- (a) Delivery of the supplies to a carrier, if transportation is f.o.b., origin; or
- (b) Delivery of the supplies to the buyer at the destination specified in the order, if transportation is f.o.b. destination.

11. Taxes

The order price includes all applicable Federal, State, and local taxes and duties.

12. Termination for the Government's Convenience

The buyer reserves the right to terminate this order, or any part hereof, for its sole convenience. In the event of such termination, the seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this order, the seller shall be paid a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the seller can demonstrate to the satisfaction of the buyer using its standard record keeping system, have resulted from the termination. The seller shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the buyer any right to audit the seller's records. The seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

13. Termination for Cause

The buyer may terminate this contract, or any part hereof, for cause in the event of any default by the seller, or if the seller fails to comply with any order terms and conditions, or fails to provide the buyer, upon request, with adequate assurances of future performance. In the event of termination for cause, the buyer shall not be liable to the seller for any amount for supplies or services not accepted, and the seller shall be liable to the buyer for any and all rights and remedies provided by law. If it is determined that the buyer improperly terminated this order for default, such termination shall be deemed a termination for convenience.

14. Title

Unless specified elsewhere in this order, title to items furnished under this order shall pass to the buyer upon acceptance, regardless of where the buyer takes physical possession.

15. Warranty

The seller warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this order.

16. Other Compliances

The seller shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this order.

17. Compliance with Laws Unique to Government Contracts

The seller agrees to comply with 31 U.S.C. 1352, Anti-Lobbying, relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701-3708, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 8701-8707, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistle blower protections; Section 1553 of the American Recovery and Reinvestment Act of 2009 relating to whistleblower protections for contracts funded under the Act; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

The U.S. Government may engage in the same inspection activities as J.F. Taylor, Inc.

18. Unenforceable Provisions

In the event that one or more provisions of this order is held to be unenforceable, the remaining provisions apply in full and the invalid or unenforceable provision will be replaced by a provision that lawfully enforces the Parties' intention underlying the invalid of unenforceable provision.

19. Export Control

(a) Seller agrees to comply with all applicable U.S. export control laws and regulations, specifically including, but not limited to, the requirements of the Arms Export Control Act, 22 USC 2751-2799, including the International Traffic in Arms Regulation (ITAR), 22 CFR 120 et seq.; and the Export Administration Act, 50 USC app. 2401-2420, including the Export Administration Regulations, 15 CFR 730-774; including the requirement for obtaining any export license or agreement, if applicable. Without limiting the foregoing, seller agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to seller or seller's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception.

(b) Seller agrees to notify Buyer if any deliverable under this order is restricted by export control laws or regulations.

(c) If seller is engaged in the business of either exporting or manufacturing (whether exporting or not) defense articles or furnishing defense services, seller represents that it is registered with the Office of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.

(d) Seller shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expenses, including attorneys' fees, all expenses of litigation and/or settlement, and court costs arising from any act or omission of seller, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

20. Information of Buyer

Information provided by buyer to seller remains the property of buyer. Seller agrees to comply with the terms of any proprietary information agreement with buyer and to comply with all proprietary information markings and restrictive legends applied by buyer to anything provided hereunder to seller. Seller agrees not to use any buyer provided information for any purpose except to perform this order and agrees not to disclose such information to third parties without the prior written consent of buyer.

Nothing in the Terms & Conditions shall be construed or interpreted to limit or in any way restrict the rights of the U.S. Government in regard to data it owns or has a right to use, including the right to authorize the seller's use of such data.

21. Information of Seller

Seller shall not provide any proprietary information to buyer without prior execution of a proprietary information agreement by the parties.

22. Intellectual Property

Seller warrants that the work performed or delivered under this order will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Seller agrees to defend, indemnify, and hold harmless buyer and its customers from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that the work performed or delivered under this order infringes or otherwise violates the intellectual property rights of any person or entity.

23. Release of Information

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this order or the subject matter hereof, will be made by seller without the prior written approval of buyer.

24. Defense Priorities and Allocation System (DPAS)

If contract is deemed a "rated order" certified for national defense use, the Seller shall follow all the requirements of the DPAS regulation (15 CFR Part 700).

25. Counterfeit Work

Seller has policies and procedures to identify potential Counterfeit Parts from suppliers. Seller shall immediately notify Buyer with the pertinent facts if Seller becomes aware or suspects that Counterfeit Parts may have been used in a product delivered to the Buyer. In the event that products delivered under this order constitutes or includes Counterfeit Parts, Seller shall, at its expense, promptly replace such Counterfeit Parts with genuine parts conforming to the requirements of this order. Notwithstanding any other provision in this order, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Parts.

26. Safeguarding Covered Defense Information and Cyber Incident Reporting

The Seller is expected to utilize adequate security measures to protect covered defense information against unauthorized access, use, destruction, modification, or disclosure and ensure compliance with DFARS clause 252.204-7012 – 'Safeguarding Covered Defense Information And Cyber Incident Reporting' where applicable. For additional resources please refer to <https://www.acquisition.gov/dfars/252.204-7012-safeguarding-covered-defense-information-and-cyber-incident-reporting>.

27. Code of Ethics

Any improper business practices and personal conflicts of interest shall be directed to J.F. Taylor, Inc.'s Corporate Ethics Officer, Tina Shade, at (301) 862-3939 x2644 or e-mail ethics@jfti.com.

28. Applicable DFARS/FAR Clauses All Procurements: 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items)
 52.222-26, Equal Opportunity
 52.222-36, Affirmative Action for Workers with Disabilities
 52.222-50, Combating Trafficking in Persons;
 52.223-6, Drug Free Workplace
 52.223-19, Compliance with Environmental Management Systems
 52.225-1, Buy American-Supplies
 52.225-13, Restrictions on Certain Foreign Purchases
 52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan
 52.225-25, Prohibition on Contracting with Entities Engaging in Sanctioned Activities Relating to Iran
 52.227-19, Commercial Computer Software License
 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels
 252.225-7001, Buy American and Balance of Payments Program
 252.227-7013, Rights in Technical Data – Noncommercial Items
 252.227-7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation

29. Applicable DFARS/FAR Clauses for Procurements of \$150K and Over: 52.203-

3, Gratuities

52.203-7, Anti-Kickback Procedures

52.203-16, Preventing Personal Conflicts of Interest

52.222-35, Equal Opportunity for Veterans

252.225-7008, Restriction on Acquisition of Specialty Metals

252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals

252.225-7012, Preference for Certain Domestic Commodities

252.225-7015, Restriction on Acquisition of Hand or Measuring Tools

30. Applicable FAR Clause for Procurements Over \$5M and with a Period of Performance of 120 days:

52.203-13, Contractor Code of Business Ethics and Conduct

31. Applicable DFARS/FAR Clauses for Procurement of Commercial Items:

52.212-4, Contract Terms and Conditions-Commercial Items

52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items

52.244-6, Subcontracts for Commercial Items

252.227-7015, Technical Data – Commercial Items

252.244-7000, Subcontracts for Commercial Items

32. Federal Affirmative Action Regulations

Applicable for Procurements Over \$10,000:

The Vendor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against qualified individuals on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin and requires affirmative action by covered prime contractors, subcontractors and vendors to ensure applicants are employed and that employees are treated without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.

The Vendor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action covered prime contractors, subcontractors and vendors to employ and advance in employment qualified individuals with disabilities.

Applicable for Procurements Over \$100,000:

The Vendor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative

action by covered prime contractors, subcontractors and vendors to employ and advance in employment qualified protected veterans.

*I09 (10/2021)